

Appl. No. : 10/767,630
Filed : January 28, 2004

REMARKS

Applicant wishes to thank Examiner Dunston and Supervisor Qian for the courtesy extended to Nancy Vensko, attorney of record, and Marina Gordey, Eric Ives, and Raymond Smith, colleagues, on 13 December 2005. The Interview Summary Form PTOL-413 summarizes the discussion held at the personal interview. The present response to the outstanding Office Action includes the substance of the Examiner Interview.

A. Disposition of Claims

Claims 2 and 10 are pending in this application. Claim 4 has been canceled without prejudice in the interests of accelerated prosecution. Claims 2 and 10 have been amended. Support for the amendment is found throughout the patent specification, for instance, at ¶ 0049. No new matter has been added. Reexamination and reconsideration of the application, as amended, are respectfully requested.

B. Compliance with 35 USC 112/1

The issue is whether Claim 4 is in compliance with 35 USC 112, first paragraph, as meeting the enablement requirement. Although Applicant does not necessarily agree with the propriety of the rejection, Claim 4 has been canceled without prejudice in the interests of accelerated prosecution. The conclusion is that the claims are in compliance with 35 USC 112, first paragraph, as meeting the enablement requirement.

C. Compliance with 35 USC 103

The issue is whether the claims are in compliance with 35 U.S.C. §103(a) or unpatentable over Barsky et al. (USP 5,643,787) in view of Crook et al., BJU International 86: 886 (2000), as cited by the Examiner. The rule according to MPEP 2143 is that to establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. There is nothing in the references that indicates that normal human bladder epithelial cells had been cultured. In the absence of being able to culture bladder epithelial cells, there was no teaching in Barsky et al. of how to culture epithelial cells that are bladder epithelial cells, let alone bladder epithelial cells that are normal. While Crook et al. described culturing bladder tumor cells, a special procedure had to be developed to culture bladder epithelial cells that are normal. The element of being able to culture normal human bladder epithelial cells is missing from the references. Hence, the prior art reference (or references when combined) do not

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teach or suggest all the claim limitations. The conclusion is that the claims are non-obvious over the references, thus the claims are in compliance with 35 U.S.C. §103(a).

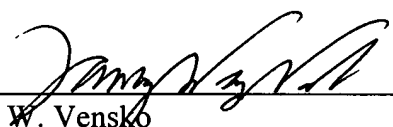
CONCLUSION

In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of all outstanding rejections are respectfully requested. Allowance of the claims at an early date is solicited. If any points remain that can be resolved by telephone, the Examiner is invited to contact the undersigned at the below-given telephone number.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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AMEND

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